

State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
November 10, 2014 at 9:00 AM
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**State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of November 10, 2014**

Board Members Present

David R. Andrews, M.D.
M. Louisa Barnhart, M.D.
David Nyberg, Ph.D.
Cheryl Clukey, M.Ed.
David H. Dumont, M.D.
Dana D. Dyer
Peter J. Sacchetti, M.D.

Board Staff Present

Timothy E. Terranova, Assistant Executive Director
Mark S. Cooper, M.D., Medical Director
Julie A. Best, Consumer Outreach Specialist
Kathryn Levesque, Investigator
Maureen S. Lathrop, Administrative Assistant

Attorney General's Office Staff Present

Dennis E. Smith, Assistant Attorney General
Detective James Gioia

Dr. Gleaton, Dr. Jones and Mr. Ross were excused.
Ms. Clukey was excused at 2:05 p.m.

The Board met in public session, with the exception of the times listed below, which were held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405, 405(4), 405(6)(E); 10 M.R.S. §8003-B; 22 M.R.S. §1711-C; and 24 M.R.S. §2510). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions were taken on all matters discussed during executive session.

EXECUTIVE SESSIONS

PURPOSE

9:16 a.m. – 10:50 a.m.

Complaints

11:05 a.m. – 12:00 p.m.

Complaints

I. Call to Order

Dr. Andrews called the meeting to order at 9:15 a.m.

A. Amendments to Agenda

1. Proposed legislation under Assistant Executive Director's Report
2. Recruitment for Executive Director under Administration, Policy, and Rules Committee

B. Scheduled Agenda Items (none)

II. Complaints

1. CR13-147 Gary L. Green, M.D.

Dr. Dumont moved to dismiss the complaint with a letter of guidance. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: The patient complains that the physician inappropriately stopped his medication. The physician responded that the patient had either lost or used his medication early on several occasions, and that he stopped the prescription based on a call reporting diversion. Concerns regarding the physician's prescribing of controlled substances were raised. The physician obtained additional education regarding the prescribing of controlled substances and made changes to his practice.

The letter of guidance will encourage the physician to recognize the importance of continued adherence to universal precautions with the prescribing of controlled substances.

2. CR14-40 Gregory G. Gensheimer, M.D.

Ms. Clukey moved to dismiss the complaint with a letter of guidance. Dr. Sacchetti seconded the motion, which passed 6-0-0-1 with Dr. Nyberg recused.

MOTION: The patient complains that he was not able to speak directly with the on-call physician about a serious concern after office hours. After two anxious phone calls in the early morning, he was instructed by the answering service employee to call the office when it opened, or to go to an emergency room. The physician replied that upon hearing the symptoms, as relayed by the answering service employee, he instructed the employee to tell the patient, if he called back, that it was not an emergency, and to call the office when it opened.

The letter of guidance will encourage the physician to: 1) recognize that patients may not know if they have a true emergency and often call because they need a doctor's consultation for reassurance; and 2) recognize that to rely solely on untrained personnel to convey symptoms from a patient, and messages to a patient, can suggest an uncaring and uninterested attitude.

3. CR13-131

Dr. Dumont moved to proceed to an Adjudicatory Hearing if a signed Consent Agreement is not received by the Board within ten days. Dr. Sacchetti seconded the motion, which passed unanimously.

4. CR13-169

Mr. Dyer moved to order an Informal Conference. Ms. Clukey seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

5. **CR13-177**

Dr. Barnhart moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: A patient in an institution complains he does not have access to certain medications that have been proven to be useful to his conditions that others have been allowed to have. The physician explains the public health concerns of these types of medications and that this patient did not meet the appropriate standards for these medications. In addition, the institutional system replied about policies now in place for the provision of these medications which were felt to be appropriate by the board. The medical record shows appropriate care.

6. **CR14-128**

Dr. Sacchetti moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

MOTION: The complainant was originally diagnosed with Stage 1 cancer with a favorable prognosis. Two years and two months following completion of her treatment, she was found to have bony metastases. The patient complains that the radiologist misread her bone scan causing a delay in restaging and treatment. The radiologist, without being dismissive, stands by his interpretation of the bone scan based on the clinical history provided and the inherent limitations of this particular imaging modality. The radiologist explained how the evolution in the patient's symptoms and new data from CT and PET scans raised the index of suspicion for metastatic disease and, in his defense, how subsequent bone scans showed uptake in a location where there previously was none.

7. **CR14-145**

Dr. Andrews moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed 6-0-0-1 with Mr. Dyer recused.

MOTION: The complaint focuses upon the physician's position as director of a medical liability insurance company. The complainant alleges that because a questionnaire asks applicants for medical liability insurance whether they engage in EDTA chelation therapy, it is intended to exclude physicians who may engage in this practice. The physician responded that none of the applications used by the insurance company inquire whether a provider engages in EDTA chelation therapy. There is no evidence that the physician was engaged in the practice of medicine with regard to the complainant. The complaint has no merit.

8. **CR14-146**

Dr. Andrews moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed 6-0-0-1 with Mr. Dyer recused.

MOTION: The complaint focuses upon the physician's position as director of a medical liability insurance company. The complainant alleges that because a questionnaire asks applicants for medical liability insurance whether they engage in EDTA chelation therapy, it is intended to exclude physicians who may engage in this practice. The physician responded that none of the applications used by the insurance company inquire whether a provider engages in EDTA chelation therapy. There is no evidence that the physician was engaged in the practice of medicine with regard to the complainant. The complaint has no merit.

9. CR14-56

Dr. Andrews moved to investigate further. Ms. Clukey seconded the motion, which passed 6-0-0-1 with Dr. Barnhart recused.

10. CR13-100

Mr. Dyer moved to investigate further. Dr. Sacchetti seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

11. CR14-124

Dr. Sacchetti moved to investigate further. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Barnhart recused.

12. CR14-135

Dr. Barnhart moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Andrews recused.

MOTION: A friend of a patient who is subject to institutional care complains that the doctor refuses to treat the patient and has been dismissive of his complaints. She also complains the physician started the patient on a medication which was not indicated and caused reactions. The physician responded that he has not refused the patient care and denied he was dismissive of his complaints. He states the medication in question was initiated appropriately, but was stopped because the patient refused to take it. The patient has undergone multiple consultations for his complaints which pre-date the medication. The medical record shows appropriate care.

13. CR14-139

Dr. Andrews moved to investigate further. Dr. Sacchetti seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

14. CR14-58

Dr. Nyberg moved to investigate further and to offer the physician leave to withdraw his license application. Ms. Clukey seconded the motion, which passed unanimously.

15. CR14-90

Dr. Andrews moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient complains of developing a complication that she believes is related to a surgical procedure. She also complains that she was not informed preoperatively of other components of the surgery. The surgeon responded with a detailed description of his informed consent process. Review of the record supported the surgeon's claim regarding adequate informed consent as well as attentive and well documented postsurgical care. The new problem was not a usual complication, and it responded initially to medical and dietary management. The patient offered no complaints about her situation at the final visit. She ultimately sought a second opinion and the problem was addressed to her satisfaction.

16. CR 14-126

Dr. Barnhart moved to dismiss the complaint. Mr. Dyer seconded the motion, which passed 6-0-0-1 with Dr. Andrews recused.

MOTION: A patient in an institution complains he was given a medication he was allergic to. The medical record was used to record a known and clearly discussed severe side effect of this medication as an "allergy." In addition, due to a peculiarity in the electronic medical record system, the "allergy" was pre-populated in the chart. The care was reviewed and found to be appropriate. The Board will address end of life care issues with the institution.

Dr. Barnhart moved that the Board write a letter to the institution regarding concerns about end of life care issues. Dr. Dumont seconded the motion which passed 6-0-0-1 with Dr. Andrews recused.

17. CR14-127

Dr. Barnhart moved to dismiss the complaint. Mr. Dyer seconded the motion, which passed unanimously.

MOTION: A patient in an institution complains he was given a medication he was allergic to. The medical record was used to record a known and clearly discussed severe side effect of this medication as an "allergy." In addition, due to a peculiarity in the electronic medical record system, the "allergy" was pre-populated in the chart. The care was reviewed and found to be appropriate.

18. CR14-129

Ms. Clukey moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Sacchetti recused.

MOTION: The patient complains about the responsiveness of her primary care physician in regards to filling out medical necessity forms. Review of the record and situation surrounding the issue reveals reasonable responsiveness by the physician and her staff with a turn-around time of less than twenty-four hours. Also, the record reveals a consistent pattern of filling out medical necessity forms to multiple vendors in an effort to support this patient with multiple medical and socioeconomic stressors.

19. CR14-130

Ms. Clukey moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed 5-0-0-2 with Dr. Andrews and Dr. Sacchetti recused.

MOTION: The patient complains that during a postoperative visit the physician was unprofessional, verbally abusive and aggressive, and refused to treat him further. The physician explained that the patient had been seriously noncompliant with postoperative precautions and had removed a cast himself weeks before it was safe even for the physician to do so. The physician offered several alternatives to continue with precautions so as not to compromise the surgical results, but the patient refused them all before preemptively leaving the exam room. The physician did not refuse to continue caring for the patient, who left the practice, and he did follow-up with recommendations of other providers for the patient to see. The physician's response is corroborated in a written statement provided by his medical assistant who was present in the exam room.

20. CR14-143

Ms. Clukey moved to investigate further. Dr. Nyberg seconded the motion, which passed unanimously.

21. CR14-148

Dr. Sacchetti moved to investigate further. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

22. CR14-150

Dr. Nyberg moved to investigate further. Dr. Dumont seconded the motion, which passed unanimously.

23. CR14-151

Dr. Dumont moved to investigate further. Dr. Barnhart seconded the motion, which passed unanimously.

24. Intentionally Left Blank

25. AD14-175

Dr. Andrews moved to issue a complaint (CR14-193). Dr. Barnhart seconded the motion, which passed unanimously.

26. Intentionally Left Blank

27. Pending Adjudicatory Hearing and Informal Conference Report

The Board reviewed the report.

28. Consumer Outreach Specialist Feedback

The Consumer Outreach Specialist provided feedback from a complainant. No Board action was necessary.

29. Physician Feedback (none)

III. Informal Conference (none)

IV. Minutes for Approval

Dr. Nyberg moved to approve the minutes of the October 14, 2014 meeting. Ms. Clukey seconded the motion, which passed unanimously.

Dr. Nyberg moved to approve the minutes of the September 29, 2014 meeting. Dr. Dumont seconded the motion, which passed 4-0-2-1 with Ms. Clukey and Dr. Sacchetti abstaining and Mr. Dyer recused.

V. Board Orders & Consent Agreement Monitoring and Approval

A. Board Orders

1. CR 14-13 Hil Rizvi, M.D. (Appendix A)

Dr. Nyberg moved to accept the Board Order. Dr. Sacchetti seconded the motion, which passed 5-0-1-0 with Dr. Dumont abstaining.

B. Consent Agreement Monitoring and Approval

1. James Iannazzi, M.D.

Dr. Dumont moved to clarify that the requirement for a five-year license probation imposed by the Consent Agreement effective September 11, 2012 commences upon Dr. Iannazzi's return to the active practice of medicine in the State of Maine. Dr. Barnhart seconded the motion, which passed unanimously.

2. William Ortiz, M.D.

The Board reviewed information that, as a result of the discipline imposed by the Board effective September 9, 2014, Dr. Ortiz has been excluded from participation in the MaineCare program.

3. Alexandria E. Nesbit, P.A.

The Board reviewed information that, as a result of the discipline imposed by the Board effective September 9, 2014, Ms. Nesbit has been excluded from participation in the MaineCare program. In addition, the National Commission on Certification of Physician Assistants has revoked her certification.

4. Carl T. Folkemer, M.D.

The Board reviewed information that the State of Maryland permanently revoked Dr. Folkemer's medical license effective October 24, 2014 due to violation of his Consent Order.

Dr. Barnhart moved to issue a complaint. Dr. Nyberg seconded the motion, which passed unanimously.

VI. Adjudicatory Hearing (none)

VII. Remarks of Chairman (none)

VIII. Assistant Executive Director's Monthly Report

The Assistant Executive Director reported that he is working with Board staff to implement process changes to utilize the Service Center for financial services and oversight. He also reminded the Board about the program scheduled for November 15, 2014 regarding prescription of extended-release and long-acting opioid analgesics. Dr. Mark Cooper, Medical Director, will be attending the meeting. The Board reviewed and accepted the report of the Assistant Executive Director.

A. MMPHP Draft Protocols

Draft protocols regarding the Maine Medical Professionals Health Program were presented to the Board for review and comment. Dennis Smith, AAG, will share Board members' comments with the Attorney General's Office.

B. Complaint Status Report

As of November 1, 2014, there are ninety-four complaints outstanding. One hundred fifty-five have been received year-to-date and one hundred thirty-seven have been closed so far this year.

C. Chapter 4 Rules

Dr. Andrews moved to formally propose the rule changes and issue a notice of rulemaking and submission of the proposed rule changes to the Secretary of State for publication pursuant to 5 M.R.S. § 8053. Dr. Nyberg seconded the motion, which passed unanimously.

D. Proposed Legislation

The Board reviewed legislation proposed by the Right to Know Advisory Committee to allow participation in public proceedings through the use of telephone, video, electronic or other means of communication, subject to certain requirements.

Dr. Nyberg moved that the Board support the proposed legislation. Dr. Dumont seconded the motion, which passed unanimously.

IX. Medical Director's Report (none)**X. Remarks of Assistant Attorney General (none)****XI. Secretary's Report****A. Licenses for Ratification****1. M.D. Licenses for Ratification**

Dr. Dumont moved to ratify the Board Secretary's approval of the following physician license applications. Dr. Sacchetti seconded the motion, which passed unanimously.

The following license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

| <u>NAME</u> | <u>SPECIALTY</u> | <u>LOCATION</u> |
|------------------------|----------------------|-----------------|
| Aldaabil, May | Internal Medicine | Not Listed |
| Bohler, John D. | Gastroenterology | Bangor |
| Bote, Herbert O. | Orthopedic Surgery | Not Listed |
| Brooks, Janice W. | Radiology | Teleradiology |
| Chan, Candy K. | Ophthalmology | Presque Isle |
| Cinelli, Christina M. | Diagnostic Radiology | Portland |
| Fisher, Beth A. | Internal Medicine | Lewiston |
| Goldstein, Richard E. | Surgery | Lewiston |
| Grayson Jr., Howard A. | Internal Medicine | Machias |
| Gupta, Priyandarjhan | Internal Medicine | Bangor |
| Harrist, Terrence J. | Dermatopathology | Telemedicine |
| Higgins, Stanley M. | Radiology | Teleradiology |
| Hoke, Thomas S. | Family Medicine | Augusta |
| Keegan, Catherine N. | Diagnostic Radiology | Teleradiology |

| | | |
|-----------------------|----------------------|---------------|
| Keenan, Sean C. | Diagnostic Radiology | Teleradiology |
| Kleaveland, Andrew S. | Emergency Medicine | Waterville |
| Kralik, Kevin S. | Emergency Medicine | Norway |
| Lieberman, Rona | Internal Medicine | Not Listed |
| Maresh, Jordan P. | Emergency Medicine | Not Listed |
| Mesa, Alonso | Anesthesiology | Lewiston |
| Saini, Virender S. | Internal Medicine | Lewiston |
| Shah, Rajvee M. | Radiology | Teleradiology |
| Takeyama, Peter H. | Diagnostic Radiology | Bangor |
| Tan, Mary A. L. | Pathology | Telemedicine |
| Tisher, Annya D. | Psychiatry | Portland |

2. P.A. Licenses for Ratification

Dr. Dumont moved to ratify the Board Secretary's approval of the following physician assistant license applications. Dr. Sacchetti seconded the motion, which passed unanimously.

The following physician assistant license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

| <u>NAME</u> | <u>LICENSE</u> | <u>PSP</u> | <u>LOCATION</u> |
|-------------------------|----------------|-----------------|-----------------|
| Bailey-Scott, Elizabeth | Inactive | None | None |
| Bouzou, Loubabatou | Inactive | None | None |
| D'Avila, Theresa | Inactive | None | None |
| Malynowski, Christopher | Inactive | None | None |
| Martucci, Christopher | Inactive | None | None |
| Mercier, Christopher | Active | Publicker, Mark | Westbrook |
| Perez, Brooke | Active | White, Edward | Damariscotta |

B. Applications for Individual Consideration (none)

C. Applications for Reinstatement

1. Applications for Reinstatement for Ratification (none)
2. Applications for Reinstatement for Individual Consideration (none)

D. Withdrawals

1. Withdraw License Application (none)
2. Withdraw License from Registration

Dr. Andrews moved to approve the licensees' requests to withdraw from registration. Dr. Barnhart seconded the motion, which passed unanimously.

The following licensees have applied to withdraw their licenses from registration.

| <u>NAME</u> | <u>LICENSE NUMBER</u> |
|----------------------|-----------------------|
| Becker, Eric | PA1200 |
| Chaudhari, Rakesh | MD19220 |
| Mukhopadhyay, Sujata | MD13270 |
| Pallares, Frank | MD19684 |
| Perrone, Jeanmarie | MD19589 |
| Robson, Dayle | MD16384 |
| Scozzafava, Joseph | MD11054 |
| Williams, David | MD6184 |

3. Withdraw License from Registration - Individual Consideration (none)

E. Licenses to Lapse by Operation of Law

The following licenses lapsed by operation of law effective October 16, 2014.

| <u>NAME</u> | <u>LICENSE NUMBER</u> |
|-------------------------|-----------------------|
| Ashley, Robert A. | MD13383 |
| Ateshim, Yonas | MD18564 |
| Bitterman, Donald E. | MD7107 |
| Case, David | MD18414 |
| Downey, Douglas | MD19112 |
| Godfrey, Gerald C. | MD19863 |
| Gorman, Alfred C. | MD18954 |
| Hamel, David | PA374 |
| Khokher, Sehar A. | MD18101 |
| MacClintock, Crystal L. | PA1455 |
| Maschka, Kathryn O. | PA1310 |
| McLellan, Robert | MD19566 |
| Mitchell, Bryan S. | MD18691 |
| Qu, Jason | MD17214 |
| Rao, Sneha Harish | MD19425 |
| Schual-Berke, Daniel A. | MD17642 |
| Stephens, John W. | PA237 |
| Tanbe, Georges | MD18916 |
| Tofani, Michael | MD10019 |
| Usher, Gary D. | MD12613 |
| Winchell, Robert J. | MD15765 |

F. Licensees Requesting to Convert to Active Status (none)

G. Renewal Applications for Review

1. Vickie Sidou, M.D.

The Licensure Committee moved to table the application and order that the physician undergo a §3286 evaluation. The motion passed unanimously.

H. Physician Assistant Schedule II Authority Requests for Ratification

1. Applications to Renew Schedule II Authority

Dr. Barnhart moved to ratify the Board Secretary's approval of the following renewal requests for Schedule II prescribing authority. Ms. Clukey seconded the motion, which passed unanimously.

The following renewal requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

| <u>NAME</u> | <u>PSP</u> | <u>LOCATION</u> |
|-------------------------|------------------------|-----------------|
| Benevides, Scott | Murray, Thomas F., Jr. | Portland |
| Bisson, Nathan | Breen, William | Bangor |
| Boyt, Kristin | Thaler, Frederick | Kittery |
| Cianfarano, Robert | Madden, Amy | Belgrade |
| Fairfield, Jamie | Weisberg, Tracey | Scarborough |
| Francis, Joseph | McCarthy, James | Bangor |
| Gehrke, Gretchen | Baker, John C. | Newport |
| Mangini, Elaine | Kotas, Kathleen | Mount Desert |
| Marian, Albert | Kotas, Kathleen | Trenton |
| Pearson, Grace | Aryal, Shubekchha | Orono |
| Perocier, Joseph | Pomeroy, Gregory | Portland |
| Shaw, Bernadette | Murray, Thomas F., Jr. | Portland |
| Vieira, Matthew | Wilson, James | Scarborough |
| Pogemiller Caron, Laura | White, Monica | Manchester |
| Wood, Beverly | Strassler, David | Portland |
| Yandow, Jennifer | Brazier, Cressy | Calais |

2. Applications for New Schedule II Authority

Mr. Dyer moved to ratify the Board Secretary's approval of the following new requests for Schedule II prescribing authority. Ms. Clukey seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

The following new requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

| <u>NAME</u> | <u>PSP</u> | <u>LOCATION</u> |
|---------------------|-----------------|-----------------|
| Anderson, Elizabeth | Wahlig, John | Portland |
| Appel, Andree | Corbin, Richard | Brunswick |
| Bacchiocchi, Angela | Turner, James | Bangor |
| Beckett, Brenda | Brown, Mark | Bar Harbor |

| | | |
|---------------------|---------------------|----------------|
| Brown, Rebecca | Thompson, Melanie | Waterville |
| Butterfield, Taylor | Bogner, Edward | Lewiston |
| Carson, Patrick | Southall, John | Portland |
| Case, Amy | Faller, Alicia | Lewiston |
| Case, Michael | Brewster, Steven | South Portland |
| Cassidy, John | Turner, James | Bangor |
| Charwat, Chase | Rodrigue, Stephen | Falmouth |
| Chase, Angela | Thompson, Melanie | Waterville |
| Colaluca, Matthew | Webb, Timothy | Waterville |
| Chretien, Jason | Brewster, Steven | Augusta |
| Currier, Danielle | Cushing, Brad | Portland |
| Deane, Cheryl | Loxterkamp, David | Belfast |
| Dempsey, Evelyn | O'Neill, Nancy | Brewer |
| Desroches, Caroline | Collins, W. Douglas | Lewiston |
| Doczy-Bordi, Steven | Marrache, Ronnie | Augusta |
| Dore, Michael | Bloch, Rebecca | Portland |
| Dumont, Melanie | Irving, Sarah | Lincoln |
| Dundon, Ann | Kuffler, Julian | Mount Desert |
| Ferland, Michelle | Turner, James | Bangor |
| Grace, Timothy | Faller, Alicia | Lewiston |
| Graves, Stephanie | Fleury, Andrés | Caribou |
| Harmon, Calli | Dionne, Andrew | Augusta |
| Hines, James | Sparks, Rodney | Machias |
| Hoffman, Sara | Buchanan, Scott | Portland |
| Hoogeveen, Julie | Dionne, Andrew | Augusta |
| Hussar, Gerald | Faller, Alicia | Lewiston |
| Jackson, Randy | Jenkins, William | Millinocket |
| Jebb, Kimara | Bloch, Rebecca | Portland |
| Kelly, Timothy | Faller, Alicia | Lewiston |
| Labrecque, Vince | Dionne, Andrew | Augusta |
| Labrecque, Vince | Bielecki, Jonathan | Augusta |
| Long, Kathy | Torres, Jonathan | Auburn |
| Luck, Michael | Webb, Timothy | Waterville |
| Mahan, William | McDermott, David | Dover-Foxcroft |
| Manley, Bruce | Bloch, Rebecca | Portland |
| Maxwell, Linda | Kuffler, Julian | Mount Desert |
| Murphy, Gordon | Brown, Mark O. | Bar Harbor |
| Murphy, Gordon | McDermott, David | Dover-Foxcroft |
| Noreika, Frank | Faller, Alicia | Lewiston |
| Noreika, Stacey | Faller, Alicia | Lewiston |
| O'Brien, Kathleen | Carr, Suzanne | Brunswick |
| O'Connor, Paul | Gowesky, Brenda | Bangor |
| Oldfield, Ronald | Brewster, Steven | Bangor |
| Olsen, Kevin | Irving, Sarah | Lincoln |
| Ouellette, Paul | Witham, Peter | Ellsworth |
| Patrick, Amy | Thompson, Melanie | Waterville |
| Perez, Brooke | White, Edward | Damariscotta |
| Picard, Matthew | Wright, Erinn | Lewiston |

| | | |
|------------------------|-------------------|----------------|
| Pickrell, James | Kearing, David | Farmington |
| Pinter, Cecilia | Pelletier, Paul | Eagle Lake |
| Raymond, Glenn | Harrigan, Daniel | Caribou |
| Robertson, Heather | Huntress, Laurie | Leeds |
| Rolland, Joseph | Bloch, Rebecca | Portland |
| Rousseau, Christy | Marrache, Ronnie | Augusta |
| Roy, Michelle | Southall, John | Portland |
| Scheib, Alison Auclair | Peterson, McKim | Rockport |
| Sirois, Sarah | Moody, Wayne | Farmington |
| Smith, Bradley | Kowash, Philip | Saco |
| Smith, John | Steele, Edward | Islesboro |
| Smith, John | McDermott, David | Dover-Foxcroft |
| Stepp, Shawn | Faller, Alicia | Lewiston |
| Trosper, Ryan | Bowe, Christopher | Lewiston |
| Toubh, Bonnie | Brewster, Steven | South Portland |
| Turner, Matthew | Kilgour, James | Rockport |
| Vandiver, Marianne | Zelnick, Charles | Stonington |
| Wardwell, Rachael | Blake, Arthur | Bangor |
| Wood, Danielle | Southall, John | Portland |

XII. Standing Committee Reports

A. Administration, Policy, and Rules Committee

1. Collaborative Drug Therapy Management

The Board discussed a law allowing collaborative practice agreements between practitioners and pharmacists. The law provides that the Pharmacy Board and the Board of Licensure in Medicine will establish rules to implement this process. The Board instructed staff to coordinate with the Board of Pharmacy to begin the rule-making process.

2. Reviewer Compensation Guidelines

The Board discussed reimbursement of case reviewers. The Board considered setting a maximum hourly reimbursement rate for case review, as well as a half-day and full-day reimbursement rate for appearance and testimony at Adjudicatory Hearings.

The Administration, Policy, and Rules Committee moved to approve the establishment of guidelines for case reviewer compensation and instructed Board staff to draft policy language. The motion passed unanimously.

3. Records Retention Schedule

Board staff proposed making two changes to the current records retention schedule:

- 1) add Assessment and Direction files to the records retention schedule. Any Assessment and Direction issue filed by the Board with no action would be retained

for six months and then destroyed; and 2) change the retention period for complaints dismissed with no action from five years to six months.

The Administration, Policy, and Rules Committee moved to approve the proposed changes to the retention schedule. The motion passed unanimously.

4. Search Committee for Executive Director

The Board discussed a proposed list of tasks, qualifications and a list of persons or organizations from whom the Board could seek nominations for candidates for the position of Executive Director.

Dr. Sacchetti moved to accept the proposed list of tasks, qualifications and suggested list of persons or organizations. Dr. Barnhart seconded the motion, which passed 5-0-1-0 with Dr. Nyberg abstaining.

Dr. Andrews, Chairman of the Administration, Policy, and Rules Committee, announced that the committee named Timothy Terranova Acting Executive Director effective October 20, 2014.

Dr. Nyberg moved to affirm the committee's decision. Mr. Dyer seconded the motion, which passed unanimously.

5. Committee meeting minutes for approval

The Administration, Policy, and Rules Committee reviewed minutes for committee meetings held on July 24, 2014 and September 11, 2014.

Dr. Nyberg moved to approve the committee meeting minutes of July 24, 2014 and September 11, 2014. Dr. Sacchetti seconded the motion which passed 3-0-0-1 with Mr. Dyer recused.

XIII. Board Correspondence (none)

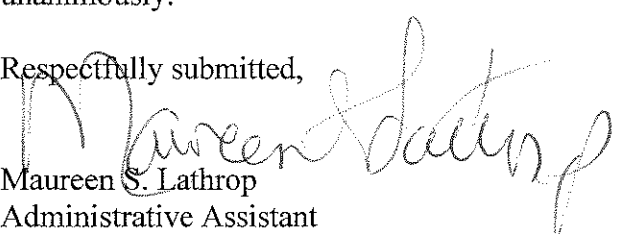
XIV. FYI

XV. Other Business (none)

XVI. Adjournment 3:08 p.m.

Dr. Dumont moved to adjourn the meeting. Dr. Sacchetti seconded the motion, which passed unanimously.

Respectfully submitted,


Maureen S. Lathrop
Administrative Assistant

STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

In Re: Hil Rizvi, M.D.

)

Denial of Application for Licensure

)

DECISION AND ORDER

)

I. PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S. § 3271, 32 M.R.S. § 3282-A, and 10 M.R.S. § 8003(5), the State of Maine Board of Licensure in Medicine ("Board") met in public session at its offices in Augusta, Maine, on October 14, 2014. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether grounds existed to deny the application for licensure as a physician of Hil Rizvi, M.D.

On January 15, 2014, the Board notified the Applicant that it had preliminarily denied his application for medical licensure in Maine. By letter received January 21, 2014, the Applicant requested an appeal of the Board's preliminary denial of his license application.

By notice issued on March 19, 2014, the Board informed the Applicant that the hearing on his appeal of the preliminary denial of his application for Maine medical licensure would be held on April 8, 2014. On March 20, 2014, the Applicant's request to continue the hearing was granted. By notice dated April 1, 2014, the Board informed the Applicant that a hearing on his appeal would be held on June 10, 2014. On June 5, 2014, a Scheduling Order was issued granting the Applicant's second request to continue the hearing.

By notice dated September 8, 2014, the Board informed the Applicant that a hearing on his appeal would be held on October 14, 2014. The Notice of Hearing alleged that although the Applicant had submitted affidavits swearing that all statements in his application materials were true, he had misrepresented several aspects of his licensure history in other states as well as his

educational qualifications. The Notice of Hearing also alleged that the Applicant had engaged in unprofessional conduct in a telephone conversation with the Executive Director of the Board on January 27, 2014.

On September 30, 2014, a Conference Order was issued setting deadlines for the parties to exchange exhibit and witness lists. On October 9, 2014, the Board amended the Notice of Hearing to include an allegation that the Applicant committed fraud or deceit by failing to immediately notify the Board that he was arrested on October 11, 2013, was indicted on March 20, 2014, and was arrested on March 29, 2014. Also on October 9, 2014, a Conference Order was issued identifying potential witnesses and indicating that the parties stipulated that the only known disqualifying factors regarding the Applicant's application were those identified in the Amended Notice of Hearing.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were David Andrews, M.D.; Louisa Barnhart, M.D.; Cheryl Clukey, Public Member; Dana Dyer, Public Member; David Jones, M.D.; David Nyberg, Ph.D., Public Member; Christopher Ross, P.A.-C; Peter Sacchetti, M.D.; and Chair Maroulla Gleaton, M.D. Dr. Rizvi was present and represented by Mark Franco, Esq., and C. William Hinnant, Jr., Esq.¹ Dennis Smith, Esq., Assistant Attorney General, represented the State of Maine. Rebekah J. Smith, Esq., served as Presiding Officer. The hearing was held in accordance with the requirements of the Administrative Procedures Act, 5 M.R.S. § 9051 et seq.

State Exhibits #1, #2, #4 to #23 (including #1A, #12A, #12B, #12C, and #12D), #25, and #26 were admitted without objection. State Exhibit #3 was excluded from the State's case-in-chief and was not offered on rebuttal. Applicant Exhibits #1 to #3, #5, and #7 were admitted without

¹ On October 14, 2014, the Superior Court granted Attorney Hinnant, who is licensed to practice law in South Carolina, an Order of Admission Pro Hac Vice to assist Attorney Franco in this matter.

objection. State Exhibit #24 and Applicant Exhibits #4 and #6 were not offered for admission. The Board took notice of its statutes and rules and confirmed that no member had any conflict of interest or bias that would prevent him or her from rendering an impartial decision in this matter. There was no objection to any member of the Board participating. Each party presented an opening statement. The State presented Tracy Morrison, Licensing Specialist for the Board; Julie Brisco, Credentials Verifications Service Manager for the Federation of State Medical Boards (telephonically); James Gioia, Detective with the Office of the Attorney General; and the Applicant² as witnesses. The Applicant presented Douglas Graff, Esq., his former attorney, as a witness (telephonically). Each party made a closing statement.

The Board was instructed that although the Applicant bore the burden to prove his qualifications for licensure in general, the State bore the burden to prove by a preponderance of the evidence any statutory violations that would form the basis of a denial. Following the close of the evidence, the Board deliberated and made the following findings of fact and conclusions of law by a preponderance of the credible evidence regarding the Applicant's application for licensure in Maine.

II. FINDINGS OF FACTS

1. In order to apply for a medical license in Maine, an applicant is required to submit a uniform application and a state addendum, both of which are submitted through the Federal Credentials Verification Service ("FCVS"). (Testimony of Morrison.) The FCVS also verifies an applicant's reported credentials, producing a Credentials Verification Report. (Testimony of Briscoe.) The FCVS has customer service representatives available to answer questions from applicants and each applicant is also assigned an analyst who is

² During the Applicant's direct examination by the State, the State's motion to have the witness declared hostile was granted.

available to answer questions. (Testimony of Brisco.) An applicant can change or amend his answers at any time in the application process. (Testimony of Brisco.)

2. On October 1, 2012, the Applicant submitted his initial web application, containing preliminary information, to the FCVS. (State Exhibit #2; Testimony of Brisco.)
3. On December 17, 2012, the Board received the Medical Professional Information Profile, including a Credentials Analysis Report, regarding the Applicant generated by the FCVS. (State Exhibit #2; State Exhibit #11; Testimony of Brisco; Testimony of Morrison.)³
Before generating the Credentials Verification report, the FCVS communicated with the Applicant to clarify questions and try to resolve inconsistencies regarding his application materials. (State Exhibit #2; Testimony of Brisco.)
4. The FCVS report indicated that there were three anomalies in the credentials information provided by the Applicant. (State Exhibit #2; Testimony of Brisco.) First, the Applicant had not provided the requisite documents to prove his identity. (State Exhibit #2; Testimony of Brisco.) The Applicant represented his birth city to be "Mardpk" in Massachusetts. (State Exhibit #2; Testimony of Brisco.) The FCVS report noted that the Applicant had been unable to provide a certified birth certificate or an original passport, but instead provided a signed statement. (State Exhibit #2; Testimony of Brisco.) Instead of the original, the Applicant provided a copy of his passport on which he had redacted his place of birth. (State Exhibit #11; Testimony of Morrison.) At hearing, the Applicant testified that he does not know where he was born but believes it was in a town called Mard in Pakistan. (Testimony of Applicant.) He testified that he redacted "Pakistan" as his place

³ The FCVS Credentials Analysis Report appears at both State Exhibit #11, date stamped by the Board as received on December 17, 2012, and at State Exhibit #2 as part of the file that FCVS forwarded to the Board on June 4, 2014.

of birth on his passport on the advice of the passport issuing authority. (Testimony of Applicant.)

5. Second, the FCVS report indicated that the Graduate Medical Education Verification Form filled out by Guthrie/Robert Packer Hospital in Pittsburgh, Pennsylvania, where the Applicant was an intern from July 1993 to March 1994, did not match the Applicant's representation because it indicated that the Applicant had been dismissed due to professionalism and interpersonal skills issues. (State Exhibit #2; Testimony of Brisco.) The form as originally submitted to the FCVS by Guthrie/Robert Packer Hospital indicated that the Applicant had been placed on probation; was disciplined or placed under investigation; was the subject of negative reports for behavioral reasons filed by instructors; had limitations or special requirements placed on him because of questions of academic incompetence, disciplinary problems, or other reason; and finally, that the Applicant was dismissed due to professionalism and interpersonal skills issues. (State Exhibit #2; Testimony of Brisco.) At hearing, the Applicant testified that he was surprised by the report of Guthrie/Robert Parker Hospital that negative reports were filed against him by instructors and that he had been previously unaware of that fact. (Testimony of Applicant.) An April 11, 1997, letter from the Chairman of the Department of Medicine at Guthrie Clinic indicated that the Applicant served as an intern there from July 1, 1993, through March 29, 1994, during which time he displayed a marked sense of dedication to his patients. (Applicant Exhibit #2.) The letter also indicated, however, that because the Applicant was highly opinionated, episodes of interpersonal conflict occurred. (Applicant Exhibit #2.)

6. Third, the FCVS Credentials Analysis Report indicated that St. Elizabeth Health Center in Youngstown, Ohio, did not file a Graduate Medical Education Verification Form but provided summary information indicating that the Applicant had served as a resident from September 1, 1995, to December 31, 1995, which did not match the Applicant's representation that he had served as a resident from July 1995 to June 1996. (State Exhibit #2; Testimony of Brisco.) Staff of the FCVS confirmed with St. Elizabeth Health Center and the Applicant the dates each had reported due to the discrepancy. (Testimony of Brisco.) Although the Applicant verbally approved a change in the dates that he had reported for attendance at St. Elizabeth to staff at the FCVS, he did not provide verification of the change in writing, which was necessary for the FCVS to make the change. (State Exhibit #2; Testimony of Brisco.) Testimony was unclear as to whether the Applicant was informed by the FCVS that his oral request to change the dates was insufficient. (Testimony of Brisco.)
7. At hearing, the Applicant testified that he had been offered a full year of residency by the attending physicians and the program director at St. Elizabeth but the hospital administration could only generate a six month contract. (Testimony of Applicant.) He reported that although he began services in July 1995 as a senior year resident, the contract not begin until September 1995. (Testimony of Applicant.) The Applicant testified that although the attending physicians wanted him to continue providing services after the contract expired in December, they were not able to get the approval of the administration to continue his contract. (Testimony of Applicant.) The Applicant testified that after his contract expired in December 1995 and he turned in his residency badge, he remained clinically involved in the community. (Testimony of Applicant.)

8. In his application, the Applicant reported no unusual circumstances, including negative reports for behavioral reasons filed by instructors, with regard to his residency at St. Elizabeth Health Center. (State Exhibit #2.) The Applicant submitted an exhibit, however, indicating that staff at St. Elizabeth Health Center had spoken with the Applicant about negative interpersonal interactions and advised him of their concern. (Applicant Exhibit #1.) St. Elizabeth Health Center's letter, submitted in lieu of a Graduate Medical Education Verification Form to the FCVS, noted that because the Applicant's residency went back so many years, further information about him would be more appropriately gathered from organizations more recently associated with him. (State Exhibit #2.) The June 1996 letter, authored by the program director at St. Elizabeth Health Center and addressed "To whom it may concern," indicated that the Applicant was very hard working and was highly qualified as a clinician. (Applicant Exhibit #1.) The letter also indicated, however, that there had been a few interpersonal interactions that had detracted from his performance, relating to his poor tolerance for what he perceived to be less than optimal performance by others given his concern that all his patients receive the highest quality of care. (Applicant Exhibit #1.) The program director indicated that staff had consulted with the Applicant regarding this issue and advised him of their concerns, noting that he had undergone formal psychological testing which showed no evidence of a personality disorder. (Applicant Exhibit #1.)
9. On January 16, 2013, the Applicant submitted his initial uniform application for physician licensure to the FCVS. (State Exhibit #2; Testimony of Brisco.) The application indicated that the Applicant lived in Frostburg, Maryland. (State Exhibit #2.) The Applicant represented that he had successfully completed an internship at Guthrie/Robert Packer

Hospital from June 1993 to March 1994. (State Exhibit #2; Testimony of Brisco.) He also represented that he had successfully completed a residency at St. Elizabeth Health Center from July 1995 to June 1996. (State Exhibit #2; Testimony of Brisco.) The Applicant noted that from January 1, 1996, to June 30, 1996, however, there had been a contract dispute. (State Exhibit #2; Testimony of Brisco.) The Curriculum Vitae of the Applicant, submitted with his application, indicated that he had attended a residency in internal medicine at St. Elizabeth Hospital from July 1995 to June 1996. (State Exhibit #9.)

10. In the state addendum to his application, the Applicant was asked the following: "Have you EVER had ANY licensing authority (INCLUDING MAINE) deny your application for any type of license, or take any disciplinary action against the license issued to you in that jurisdiction, including but not limited to warning, reprimand, fine, suspension, revocation, restrictions in permitted practice, probation with or without monitoring?" (State Exhibit #10.) In response, the Applicant stated "yes" and indicated that the Medical Board of Ohio had denied him licensure but that on July 28, 2000, a court found that the Ohio Board had violated applicable law by exceeding the allowable time to process an application and as such ordered the Board to grant his application. (State Exhibit #10.) The Applicant indicated that Ohio Board's initial denial was not based on clinical practice or impairment of any sort. (State Exhibit #10.) At hearing, the parties stipulated that following his initial denial of licensure in Ohio, other states took action based on Ohio's action. (Stipulation of Parties.) In his application, the Applicant reported in the state addendum that based on the Ohio Board's initial denial, the states of Pennsylvania, Vermont, and Utah had also denied him licenses. (State Exhibit #10.) The Applicant represented that he had since been issued a license in all three states but had let those from Vermont and Utah expire. (State Exhibit

#10.) In an explanatory letter submitted with the state addendum to his application, the Applicant restated the facts as he had represented them in his applications with regard to the denial of his application in Ohio, Vermont, Utah, and Pennsylvania. (State Exhibit #10.)⁴ The Applicant provided the contact number for attorney Douglas Graff who had represented him with regard to those denials. (State Exhibit #10.) He also provided the Court Order from the Court of Common Pleas in Ohio remanding the case to the State Medical Board of Ohio and ordering it to grant his application because the Medical Board had exceeded the allowed timeline for processing an application. (State Exhibit #10.)

11. The Applicant did not, however, reference or provide the Stipulation and Order of April 12, 2000, that he had entered into with the Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah. (State Exhibit #13.) In the Stipulation and Order, the Applicant admitted that he should have exercised reasonable diligence in reporting required information when he submitted his application for a medical license in March 1996. (State Exhibit #13.) The Applicant admitted that he was negligent in not providing accurate information on his application or alternatively providing an addendum with the application regarding his responses. (State Exhibit #13.) The Applicant agreed that an appropriate basis existed to take action against his license and further agreed to allow his license to practice medicine to expire on April 30, 2000. (State Exhibit #13.) In the Stipulation and Order, the Applicant agreed to waive his residual rights to renew his medical license upon expiration and also agreed not to practice medicine in the State of Utah. (State Exhibit #13.)

⁴ The Applicant had assistance filing his application but recalls entering the written responses including those used to produce the addendum to his application. (Testimony of Applicant.)

12. In the state addendum to his application for Maine licensure, the Applicant answered “no” to the following question: “Have you EVER been charged, summonsed, indicted, arrested, or convicted of any criminal offense, including when those events have been deferred, set aside, dismissed, expunged, or issued a stay of execution?” (State Exhibit #10.)
13. The Applicant executed an “Affidavit and Release” for the FCVS indicating that all statements “I have or shall make with respect [to the application] are true” and that “all documents, forms or copies thereof furnished or to be furnished with respect to the application are strictly true in every aspect.” (State Exhibit #11; Testimony of Brisco.)
14. The Applicant also executed an “Affidavit And Authorization For Release Of Information” with his application, which he swore to on January 24, 2013, before a Notary Public, and provided to the Board on January 28, 2014. (State Exhibit #10.) In the affidavit, the Applicant swore that he had answered all questions contained in the application truthfully and completely. (State Exhibit #10.) He also swore that he would immediately notify the Board in writing of any changes to the answers to any of the questions contained in the application if such a change occurred at any time prior to a license to practice medicine being granted to him by the Board. (State Exhibit #10.) In addition, in the affidavit, the Applicant affirmed his understanding that his failure to answer questions contained in the application could lead to a denial of his application. (State Exhibit #10.)
15. On March 14, 2013, the Board received documentation from the State Medical Board of Ohio regarding the Applicant’s licensure in Ohio. (State Exhibit #12.) The information indicated that the Applicant was granted a license on March 2, 2001, and that the license, which was active, was due to expire on April 1, 2014. (State Exhibit #12A.) The information indicated that the Applicant had indicated his place of birth as Pakistan. (State

Exhibit #12A.) The Ohio Board also reported that the Applicant had received formal discipline. (State Exhibit #12A.) The Ohio Board attached the recommendation of the hearing officer in July 1998 to uphold the Ohio Board's preliminary denial of the Applicant's application on the basis that he had committed fraud in applying for the license; he had published a false, fraudulent, deceptive, and misleading statement; and he had failed to furnish satisfactory proof of good moral character. (State Exhibit #12C.) The fraudulent representations of the Applicant included his representation regarding completion of the residency program at St. Elizabeth Hospital Medical. (State Exhibit #12C.)

16. On October 11, 2013, a warrant was issued for the Applicant on charges of assault in the second degree, disorderly conduct, and malicious destruction of property on October 9, 2013. (State Exhibit #18; Testimony of Gioia.) The Applicant was released on bond on October 12, 2013. (State Exhibit #18; Testimony of Gioia.) The police report from the incident indicated that an unknown female caller, upset and crying, stated that she was assaulted in Burger King. (State Exhibit #21.) The investigating officer's interview with witnesses indicated that an employee of the store had been involved in a dispute with a customer who grabbed her and pushed her up against the glass. (State Exhibit #21.) The alleged victim reported to the investigating officer that the alleged perpetrator sought to return some french fries he had purchased the day before and that she informed him after speaking with her manager that no refund would be given, at which point the alleged perpetrator got out of his car, grabbed her by the wrist, and pushed her against the building, causing a bracelet on her wrist to break. (State Exhibit #21.) The Applicant, who was identified as the alleged assailant, told the investigating officer that he sought to return

some french fries and the employee had refused to take them back. (State Exhibit #21.)

The Applicant denied grabbing or touching the employee. (State Exhibit #21.)

17. The Applicant did not report his October 11, 2013, arrest or the charges filed against him to the Board. (Stipulation of Parties; Testimony of Morrison; Testimony of Applicant.) The Applicant testified that he did not inform the Board of the charges because he felt that they were laughable. (Testimony of Applicant.) He testified that his attorney suggested that he not report the charges to anyone because it would lead to embarrassment for the police department. (Testimony of Applicant.) The Board learned of the charges shortly before the hearing. (Testimony of Morrison; Testimony of Gioia.)
18. On January 9, 2014, the Board sent a letter to the Applicant indicating that its licensure committee had reviewed his application and discovered a number of issues. (State Exhibit #7.) The letter posed several questions to the Applicant regarding his application materials, including inquiries regarding his Ohio and Utah license histories and his residency at St. Elizabeth Health Center. (State Exhibit #7.)
19. On January 13, 2014, the Board received a response from the Applicant to the questions it had posed. (State Exhibit #6.) With regard to his Ohio license, the Applicant responded that while his clinical performance during his residency at St. Elizabeth Health Center had been documented very positively, the contracting experience was marred by the defamatory witch hunt of the hospital's attorney with Zionist hatred and jealousy as its foundation. (State Exhibit #6.) The Applicant further reported that his corroborated experience was not worth mentioning in official forms and he generally chose to ignore it. (State Exhibit #6.) With regard to the Utah license, the Applicant responded that he felt that the explanation given regarding the expiration of the license was adequate and that because he never

practiced in that state, no further explanation was warranted. (State Exhibit #6.) Finally, with regard to the term of his residency at St. Elizabeth Health Center, the Applicant responded that he had completed his residency contract on December 31, 1995, but that subsequent work between January 1996 and June 1996 was to be officially credited. (State Exhibit #6.) The Applicant contended that the information received from St. Elizabeth by the FCVS was incorrect. (State Exhibit #6.)

20. By letter dated January 15, 2014, sent certified mail, the Board notified the Applicant that it had voted to preliminarily deny his application for licensure. (State Exhibit #5.) The first basis for the Board's denial was that the Applicant had failed to disclose on his application for licensure and its addendum that in April 2000 he had entered into a Stipulation and Order with the Division of Occupational and Professional Licensing of the Department of Commerce of Utah in which he acknowledged that he was negligent in providing accurate information on the application and that appropriate bases existed to take action against his license to practice medicine and in which he agreed not to practice medicine in the State of Utah. (State Exhibit #5.) The second basis for the Board's denial was that the Applicant had misrepresented the dates of his residency at St. Elizabeth's Hospital on his application, his Curriculum Vitae, and his submission to the FCVS. (State Exhibit #5.) The third basis for the Board's denial was the Applicant's assertion that he was never placed on probation, was never disciplined or placed under investigation, did not receive any negative reports for behavioral reasons, and did not have any limitations or special requirements imposed on him because of academic performance, incompetence, disciplinary problems, or for any other reason while a resident at Guthrie/Robert Packer Hospital. (State Exhibit #5.) The Board noted that the misrepresentations of the Applicant occurred in the context of his

execution of an affidavit with his application, in which he swore that all statements that he made were true and that all documents and forms submitted with the application were strictly true in every respect, and his execution of an affidavit to the FCVS in which he certified under oath that all statements he submitted were true and that all documents and forms furnished to the FCVS as part of his application were strictly true in every respect and he affirmed that he had answered all questions truthfully and completely. (State Exhibit #5.)

21. On January 27, 2014, during a telephone call with Randall Manning, the Executive Director of the Maine Board of Licensure in Medicine, the Applicant expressed his frustration with the preliminary denial of his application. (Testimony of Applicant.) The Applicant testified that he raised his voice, was confrontational, and may have sworn, which he agreed was unprofessional. (Testimony of Applicant.)

22. On March 20, 2014, the Applicant was indicted on charges of child abuse, assault in the second degree, and neglect of the minor in the Circuit Court for Allegany County in Maryland. (State Exhibit #19; Testimony of Gioia.) On March 24, 2014, a warrant was issued. (State Exhibit #19; Testimony of Gioia.) On March 31, 2014, the Applicant was arrested. (State Exhibit #19; Testimony of Gioia.) Detective James Gioia, who investigated the charges against the Applicant for the Board, was unable to locate further information regarding the charges because the information was deemed confidential. (Testimony of Gioia.) The Applicant testified that these charges were the result of his child's condition of anorexia. (Testimony of Applicant.)

23. The Applicant did not inform the Board of these charges because caring for his children was his primary concern at the time. (Testimony of Morrison; Testimony of Applicant.)

Although the Applicant testified at hearing that these charges were not being prosecuted, the record does not contain any documentation to that effect. (Testimony of Applicant.) The Board learned of the charges shortly before the hearing. (Testimony of Morrison; Testimony of Gioia.)

24. Detective Gioia was not able to locate a town in Massachusetts called Mardpark or anything similar. (Testimony of Gioia.)

25. On March 28, 2014, the FCVS received an amended Graduate Medical Education Verification Form from Guthrie/Robert Packer Hospital indicating that although the program was not successfully completed, the Applicant was provided credit. (State Exhibit #2; Testimony of Brisco.) The Verification Form indicated that due to negative interactions with hospital staff, the Applicant had resigned and was granted nine months of internal medicine training. (State Exhibit #2; Testimony of Brisco.) The verification form indicated that although the Applicant was not placed on probation or under investigation as previously reported, negative reports for behavioral reasons had been filed by instructors. (State Exhibit #2.) Although the FCVS did not provide the Guthrie/Robert Packer Hospital amendment to the Board immediately, it did so eventually. (Testimony of Brisco.)

26. On March 28, 2014, Gloria Mack, of Guthrie/Robert Packer Hospital, also created a memorandum, although it was not provided to the Board until the Applicant presented it at hearing, indicating that upon its review of the Applicant's file, he was an "internal medicine intern (resident)" from July 1, 1993, through March 29, 1994, successfully completing nine months of residency training. (Applicant Exhibit #7.) The memo indicated that the Applicant was never placed on probation or under investigation. (Applicant Exhibit #7.) The memo indicated that the Applicant was reported as having professionalism and

interpersonal skills issues. (Applicant Exhibit #7.) Finally, the memo indicated that the Applicant resigned his residency training effective March 29, 1994. (Applicant Exhibit #7.)

III. GOVERNING STATUTES AND RULES

1. The Board may not grant an application for licensure unless the Board finds that the applicant is qualified and no cause exists, as set forth in 32 M.R.S. § 3282-A, that could be considered grounds for disciplinary action against a licensed physician. 32 M.R.S. § 3271(5).
2. When an individual applies for a license, the Board may investigate the professional record of that individual, including professional records that the individual may have as a licensee in other states and may deny a license based on the record of the applicant in other states. 32 M.R.S. § 3282-A(1).
3. The Board may refuse to issue a license or impose discipline on a licensee if the Board finds that the individual engaged in the practice of fraud or deceit in obtaining a license or in connection with service rendered within the scope of the license. 32 M.R.S. § 3282-A(2)(A).
4. The Board may refuse to issue a license or impose discipline on a licensee if the Board finds that the individual committed unprofessional conduct. 32 M.R.S. § 3282-A(2)(F). A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior, including engaging in disruptive behavior, that has been established in the practice for which the licensee is licensed. 32 M.R.S. § 3282-A(2)(F).

IV. CONCLUSIONS OF LAW

The Board, considering the above facts and those alluded to in the record but not referred to herein, determined as follows by unanimous vote:

1. The Applicant misrepresented on his application for Maine medical licensure that he simply let his Utah license expire when, in fact, he entered into a "Stipulation and Order" with the Division of Occupational and Professional Licensing of the Department of Commerce in which he agreed to allow his medical license to expire and not practice medicine in the State of Utah due to his failure to "exercise reasonable diligence" in reporting information on his application for medical licensure.
2. The Applicant failed to disclose on his application for Maine medical licensure that on April 9, 2000, he entered into a "Stipulation and Order" with the Division of Occupational and Professional Licensing of the Department of Commerce in Utah in which he admitted that he should have "exercised reasonable diligence in reporting" information on his application for a Utah medical license; that he was negligent in not providing accurate information on his application or providing an addendum with the application to further inform the Division regarding his responses on the application; and that an appropriate basis existed to take action against the license to practice medicine, and in which he agreed to allow his license to practice medicine to expire on April 30, 2000 and agreed not to practice medicine in the State of Utah.
3. The Applicant misrepresented on his application for licensure that he had successfully completed a residency at St. Elizabeth Health Center and that he misrepresented on his submission to FCVS, his application, and his Curriculum Vitae that he attended a residency program at St. Elizabeth Health Center from July 1995 through June 1996 when, in fact, he only attended the residency program from July 1995 through December 1995.

4. The Applicant misrepresented to the FCVS that he successfully completed the residency program at Guthrie/Robert Packer Hospital from July 1993 through April 1994 without having any negative reports for behavioral reasons filed by instructors.
5. The Applicant engaged in unprofessional conduct by raising his voice and using profanity during a telephone conversation with the Executive Director of the Board on January 27, 2014.
6. The Applicant committed fraud and deceit by failing to immediately notify the Board that on October 11, 2013, he was arrested on a warrant for Assault, Disorderly Conduct, and Malicious Destruction of Property; that he was indicted on March 20, 2014, for Abuse, Assault, and Neglect of a Minor; and that he was arrested on March 29, 2014, on a warrant for Child Abuse, Assault, and Neglect of a Minor.

As a result of these factual findings, the Board also determined the following by unanimous vote:

1. Dr. Hil Rizvi committed the practice of fraud and deceit in attempting to obtain a license. 32 M.R.S. § 3282-A(2)(A).
2. Dr. Hil Rizvi engaged in unprofessional conduct. 32 M.R.S. § 3282-A(2)(F).
3. Because grounds existed that could form the basis for disciplinary action against him were he licensed in Maine, the application of Dr. Hil Rizvi to become licensed to practice medicine in the State of Maine was denied. 32 M.R.S. § 3271(5).

So Ordered.

Dated: November 10, 2014



David Andrews, M.D.
Acting Chair
State of Maine Board of Licensure in Medicine

V. APPEAL RIGHTS

Pursuant to the provisions of 10 M.R.S. § 8003(5) and 5 M.R.S. § 11002(3), any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by certified mail, return receipt requested, upon the State of Maine Board of Licensure in Medicine, all parties to the agency proceedings, and the Attorney General.